

HOUSE BILL REPORT

HB 1158

As Reported by House Committee On:
Local Government

Title: An act relating to county treasurer administrative changes.

Brief Description: Modifying county treasurer administrative provisions.

Sponsors: Representatives Takko and Alexander.

Brief History:

Committee Activity:

Local Government: 1/27/05, 2/15/05 [DPS].

Brief Summary of Substitute Bill

- Allows the official submission of documents to governmental entities through private delivery services and creates related procedural regulations.
- Revises interest rate calculation rules with respect to refunds owed to developers for certain unexpended land development fees.
- Links the recordation of boundary line adjustments with the presentation of proof that the requisite taxes have been paid.
- Prohibits the assessment of interest or penalties for unpaid property taxes owed on the personal residences of active duty military personnel on duty overseas and which have accrued during a period of armed conflict.
- Clarifies regulations regarding the deadline for the payment of unpaid real property taxes and associated liens.
- Relieves the county treasurer of responsibility for the payment of refunds for erroneous tax payments made by third parties without a legal interest in the property.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 6 members: Representatives Simpson, Chair; Clibborn, Vice Chair; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Takko and Woods.

Staff: Thamas Osborn (786-7129).

Background:

The county treasurer (treasurer) operates under the authority of various state statutes relating to the receipt, processing, and disbursement of funds. The treasurer is the custodian of the county's money and the administrator of the county's financial transactions. In addition to his or her duties relating to county functions, the treasurer provides financial services to special purpose districts and other units of local government, which include responsibility for the receipt, disbursement, investment, and accounting of the funds of each of these entities. The treasurer is also responsible for the collection of various taxes, including legal proceedings to collect past due amounts. Furthermore, the treasurer has other miscellaneous duties such as conducting bond sales and sales of surplus county property.

Note: The numbered background sections, set forth below, directly correspond to the numbered bill summary sections which follow.

(1) Requirements for the filing of documents with governmental entities.

Documents transmitted to state governmental entities through the United States mail are deemed to have been filed or received by such governmental entity on the date shown by the post office cancellation mark stamped upon the envelope or other wrapper. Where a document was either mailed and not received, or the required cancellation mark is illegible or missing, the document is deemed to have been timely received by the governmental entity provided competent evidence is provided by the sender showing that the document was sent on or before the required date for filing.

(2) Collection services provided by county treasurer.

The treasurer may provide services to other county departments with respect to the collection of various funds. Upon the receipt of such funds from the county treasurer, a county department must deposit the funds within 24 hours unless a special waiver is granted by the treasurer.

(3) Disposition of abandoned property under the Uniform Unclaimed Property Act.

The Uniform Unclaimed Property Act (UUPA) sets forth the regulations controlling the identification, treatment, and disposition of abandoned or unclaimed property in the possession of state and local governmental entities. The Act is administered by the Department of Revenue. Certain categories of abandoned property are exempted from the provisions of the UUPA, including lottery and parimutuel tickets, certain claims drafts issued by insurance companies, certain categories of personal property, and specified types of gift certificates.

(4) Reporting requirements for governmental entities regarding unclaimed property.

Pending a claim and proof of ownership being established, governmental entities, including counties, are allowed to retain various categories of unclaimed funds they are holding pursuant to the UUPA. Such funds include certain cancelled warrants, uncashed checks, excess proceeds from property tax and irrigation district foreclosures, and property tax overpayments. Governmental entities are required to file reports to the Department of Revenue

regarding the retention of such property that include the identification of the property and the owner.

(5) Changes to regulations regarding the calculation of certain interest rates owed to developers as the result of payment refunds.

As a general rule, the state preempts local governmental entities with respect to the collection of most types of excise taxes. Except for the collection of specified impact fees as expressly allowed by statute, local governments are precluded from imposing taxes, fees, or charges related to the development of buildings or land. However, a local government may enter into a voluntary agreement with a private entity in which the entity is allowed to pay a fee in lieu of a dedication of land or to mitigate an impact resulting from a proposed development. Such agreements are subject to several requirements, including the requirement that under certain conditions the developer must be refunded such payments, with interest, if the payments are not expended by the local government. In this event, the interest must be calculated at the same rate as applied to judgments owed to property owners of record at the time of the refund, which is a fixed rate of 12 percent.

(6) Regulations regarding the payment of taxes and the recording of boundary line adjustments.

State law does not require the presentation of proof to the county auditor that the requisite tax payments have been made as a condition precedent to the boundary line adjustment being recorded by the county.

(7) Prohibition against property tax penalties for certain active duty military personnel.

No interest or penalties may be assessed for the period April 30, 2003, through April 30, 2005, on delinquent taxes imposed for collection in 2003 or 2004 which are imposed on the personal residences owned by military personnel who participated in the recent situation known as "Operation Enduring Freedom."

(8) Clarification of regulations regarding the deadline for the payment of unpaid real property tax liens. Persons having claims to real property subject to unpaid real property tax liens may satisfy the lien at any time before the *execution of the deed of trust* to the property.

(9) Changes to regulations regarding payments to third parties regarding refunds for property tax errors. County treasurers are subject to regulations regarding the payment of refunds on certain erroneously paid property taxes. The types of errors entitling a payee to a refund include, but are not limited to:

- taxes paid more than once;
- paid as the result of clerical or other record keeping errors by government entities;
- paid under levies or statutes later found to be illegal;
- paid by a person legally exempted from paying real property taxes; or
- certain payments made on the basis of an improperly calculated property value assessment.

Under certain circumstances, erroneous payments made by third parties having no legal interest in the property are also subject to refunds.

Summary of Substitute Bill:

(1) Requirements for the filing of documents with governmental entities.

Documents transmitted to governmental entities through private third-party delivery services are subject to the same proof of delivery standards applied to documents sent through the United States mail. A record of the shipping date or delivery date authenticated by the private third-party delivery service will be deemed competent evidence of such shipping or delivery date.

(2) Collection services provided by county treasurer.

Specifies that money received by a county department from the treasurer must be deposited within 24 hours in an account designated by the treasurer unless a waiver is granted by the treasurer.

(3) Revision of the applicability of the Uniform Unclaimed Property Act.

The requirements of the Uniform Unclaimed Property Act do not apply to excess proceeds held by governmental entities obtained from foreclosures for delinquent property taxes, assessments, or other liens.

(4) Retention of certain funds by public entities under the Uniform Unclaimed Property Act.

Governmental entities are no longer allowed to retain funds derived from "excess proceeds from property tax and irrigation district foreclosures" pending a formal claim being made by the owner.

(5) Changes to regulations regarding the calculation of certain interest rates owed to developers as the result of payment refunds.

The calculation of interest rates owed to developers on refunds from local governments for certain unexpended land development payments are revised. The revision requires that the interest be calculated at a variable rate calculated consistent with the regulations concerning certain tax refunds, rather than the current fixed rate of 12 percent.

(6) Regulations regarding the payment of taxes and the recording of boundary line adjustments.

A boundary line adjustment may not be recorded by a county auditor absent documentary proof from the person requesting the recordation that all taxes and assessments on the affected property or properties have been paid in full.

(7) Prohibition against property tax penalties for certain active duty military personnel.

Prohibits the assessment of interest or penalties for unpaid property taxes owed on the personal residences of active duty military personnel on duty overseas and which have accrued during a period of armed conflict. This prohibition is applicable to all taxes levied for collection in 2005 and thereafter. These provisions extend the duration of the tax payment benefits allowed certain military personnel and add criteria that must be satisfied before a person in the military may be eligible for such benefits.

(8) Clarification of regulations regarding the deadline for the payment of unpaid real property tax liens.

Revises the deadline for the payment of unpaid liens by allowing persons having claims to real property subject to unpaid tax liens to satisfy such liens at any time before the *filing of a certificate of delinquency or judgment* as provided under the pertinent lien foreclosure statutes. Redemption rights are subject to the requirements of RCW 84.64.060 after a certificate of delinquency or judgment has been issued.

(9) Changes to regulations regarding payments to third parties regarding refunds for property tax errors.

Third parties who erroneously pay taxes on property in which they have no legal interest are no longer entitled to refunds from the county treasurer.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- Deletes Section 3 in its entirety, and replaces it with a new section amending statutory provisions regarding the determination of whether or not property may be deemed to be abandoned. The amendment states that the Uniform Unclaimed Property Act does not apply to excess proceeds held by governmental entities obtained from foreclosures for delinquent property taxes, assessments, or other liens.
- Amends Section 4, which under the original bill eliminated counties from the list of governmental entities that are required to report to the Department of Revenue regarding abandoned property a governmental entity may be holding. The proposed substitute: (1) restores the original statutory reporting requirements applicable to counties; and (2) eliminates funds derived from "excess proceeds from property tax and irrigation district foreclosures" from the list of funds that may be retained by a public entity pending a formal claim being made by the owner.
- Deletes original Section 6 in its entirety, and replaces it with an amended version of the original Section 7, linking the recordation of boundary line adjustments with the presentation of proof that the requisite taxes have been paid. The added amendments are technical in nature.
- Adds a new Section 7, prohibiting the assessment of interest or penalties for unpaid property taxes owed on the personal residences of active duty military personnel on duty overseas and which have accrued during a period of armed conflict. This section is applicable to all taxes levied for collection in 2005 and thereafter.
- Makes technical changes to Section 8 and adds language stating that redemption rights shall be controlled by RCW 84.64.060 after a certificate of delinquency or judgment has been issued.
- Adds an emergency clause causing the act to take effect immediately upon passage.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This is an omnibus bill introduced on behalf of county treasurers. The legislation makes technical and substantive changes to numerous statutory provisions that affect county treasurers statewide. Some of the provisions currently in the bill are being reconsidered, the end result being that some of the provisions will be amended or deleted. The bill, in its current form, includes the following subject matter:

- amends current law to facilitate the use of private delivery services (UPS, Fedex, etc.) for the sending of tax related documents to county treasurers;
- clarifies statutory provisions regarding public agencies making deposits with treasurers;
- revises interest rate rules regarding refunds owed to developers so as to lower such rates from the current 12 percent and replace it with a variable rate;
- revises the regulations governing the processing of the taxation of water rights transfers;
- requires proof that all taxes have been paid before a boundary line adjustment will be recorded; and
- revises tax collection rules related to foreclosures.

The bill also contains provisions regarding the erroneous payment of property taxes by third parties who, in fact, have no tax liability with respect to the property in question. Under current law, county treasurers bear the burden of providing refunds to these third parties for their payment of taxes they do not owe. Some third parties make the same mistake year after year, which places an expensive and time consuming burden on treasurers. The bill would make these third parties responsible for directly obtaining reimbursement themselves from the person or entity who was responsible for making the tax payment. In other words, in order to get his or her money back, the payor of the taxes would bear the burden of seeking reimbursement directly from the beneficiary of the erroneous tax payment and thus relieve the county treasurer of such responsibility.

(With concerns) The water rights transfer provisions in the bill are ill-advised and current law should remain as it is. Water rights transfers should be treated the same as other transfers of property rights when it comes to the processing of taxes. Such transfers should remain under the jurisdiction of county treasurers and not be shifted to the Department of Revenue.

Testimony Against: None.

Persons Testifying: Representative Takko, prime sponsor; and Rose Bowman, Washington State Association of County Treasurers.

(With concerns) Kristen Sawin, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: (With concerns) Kathleen Collins, Washington Water Policy Alliance.